**THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

**W.P.No.27398 of 1996**

***Date:24.01.2007***

**Between:**

S.Anandam.

.. PETITIONER

AND

The District Revenue Officer and another.

..RESPONDENTS

**ORDER:**

The short question, which arises for consideration in this writ petition, is as to whether the District Revenue Officer (Revenue Divisional Officer) is competent to cancel a caste certificate.

It is not in dispute that the impugned proceedings, dated 23.10.1995, whereby, the caste certificate issued in favour of the petitioner was cancelled by the first respondent in exercise of the powers vested under G.O.Ms.No.282, dated 19.12.1988.

Sri K.Mahipathi Rao, learned counsel for the petitioner would refer to Section 5 of the Andhra Pradesh (SC, ST and BCs) Regulation of Issue of Community Certificate Act 1993 (for short 'the Act'), which reads thus:

**Section 5: Cancellation of the False Community Certificate.**

(1) Where, before or after the commencement of this Act a person not belonging to any of the Scheduled Castes, Schedule Tribes or Backward Classes has obtained a false Community Certificate to the effect that either himself or his children belongs to such Castes, Tribes or Classes, the District Collector may either suo motu or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving

the person concerned an opportunity of making a representation:

Provided that where an enquiry into the genuineness of a community certificate issued prior to the commencement of this Act has commenced and is pending at such commencement, the record thereof shall be transferred by the concerned authority to the District Collector and he shall continue the enquiry and conclude the same under this sub-section

(2) The powers of the nature referred to in sub-section (1) may also be exercised by the Government.

Under Section 5 (1) of the Act, it is the only District Collector, who is empowered to enquire into the correctness of the certificate and, by notification, cancel the certificate after giving the person concerned, an opportunity of making a representation.

This Court in **T.V.S.S.KUMAR v COMMISSIONER OF TRIBAL WELFARE, HYDERABAD**[1], held that since the procedure for cancellation of a community certificate was prescribed under Section 5 of the Act, it was only the District Collector and not the Commissioner of Tribal Welfare who is competent to cancel the community certificate.

The learned Government Pleader for Social Welfare would submit that the powers exercised by the District Revenue Officer was under G.O.Ms.No.282, dated 19.12.1988, and this Court in the judgment cited supra did not examine the said G.O.

It is necessary to note that Act 16 of 1993 came into force on 15.05.1997 in view of Section 1 (3) thereof vide G.O.Ms.No.57, dated 18.05.1997. The impugned proceedings of the District Revenue Officer, dated 23.10.1995, is prior to the coming into force of the Act. As such, neither Act 16 of 1993 nor the judgment cited supra has any application to an order passed prior to the date of the Act coming into force.

In view of the specific assertion in the counter-affidavit

that in G.O.Ms.No.282, dated 19.12.1988, the Additional District Magistrate is competent to cancel the community certificate issued in favour of any person, the impugned order, dated 23.10.1995, cannot be found fault with. Since this is only the ground on which a challenge is made to the impugned proceedings, the writ petition must fail.

The writ petition is accordingly dismissed. No costs.

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24.01.2007

kdl

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[1] 2006(2) ALD 80